

April 7, 1939.

Mr. H. T. Healy, Comptroller,  
Business Office,  
University of Arizona,  
Tucson, Arizona.

**LAW LIBRARY**  
**ARIZONA ATTORNEY GENERAL**

Dear Sir:

We have your letter of March 23d wherein you inquire as to the meaning of the word "deemed" as used in Section 3 of Article VII of the State Constitution.

It is our opinion that the only effect of the provision is to place upon the person applying for entrance into the school as a resident, the duty of proving that he is a resident of the State of Arizona by facts wholly independent and outside of his presence in the State as a student, and that the proof submitted should be very clear and convincing, the presumption being that his attendance at the school during the prior year as a student was for the purpose of attending school solely, and not for the purpose of establishing his residence in the State of Arizona. In other words, when the Residence Committee of the University of Arizona is considering a case such as you state in your letter, the applicant's presence at the University as a student thereof is irrelevant and should not be taken into consideration.

Perhaps the simplest way to state the rule is that the constitutional provision cited does not have the effect of preventing a person who has come into the State of Arizona for the purpose of attending the University of Arizona from acquiring a residence in Arizona if he is disposed to do so, but the burden of proving the acquisition of a residence by such person is upon him, and he must prove the acquisition of a new residence in Arizona by facts wholly independent and outside of his presence in the State as a student.

We trust this fully answers your question, but should you be further interested in the matter, we refer you to the latest case we have been able to find involving the provision in question. The case is cited as *Watermeyer v. Mitchell*, 9 N.E. (2) 783. We also refer you to *Choueau v. Roth*, 72 S.W. (2) 997. There are numerous other cases on the question but we believe that these two state the rule as found in all preceding them. The latter seems to be a bit less rigid in its requirements than the former.

Very truly yours,

JOE CONWAY,  
Attorney General.

EDWARD P. CLINE,  
Assistant Attorney General.

EARL ANDERSON, ✓  
Special Assistant

Attorney General.